

# FPPC *Bulletin*



September 2005

Fair Political Practices Commission

Volume 31, No. 3

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## **Toll-free Advice Line: 1-866-ASK-FPPC**

Public officials, local government filing officers, candidates, lobbyists and others with obligations under the Political Reform Act are encouraged to call toll-free for advice on issues including campaign contributions and expenditures, lobbying and conflicts of interest. *FPPC staff members answer thousands of calls for telephone advice each month.*

## **Commission Continues Detailed Discussion of New Strategic Plan**

By Jon Matthews  
FPPC Information Officer

At its October meeting, the Fair Political Practices Commission will continue its in-depth discussion of strategic planning for future years.

A discussion of Commission enforcement resources and procedures is scheduled for the meeting, to be held on Wednesday, October 12.

"The Commission is encouraging public comment and participation as we consider ideas and goals for all of our programs and services," said FPPC Chair Liane Randolph.

The FPPC has created a new page on our website with links to past meeting agenda materials relating to the planning process and other helpful information:

<http://www.fppc.ca.gov/index.html?id=464>

The Commission has taken many steps to improve efficiency — including the adoption of several expedited enforcement programs — but it is still facing significant resource and staffing challenges. While California's Political Reform Act, adopted by the voters in 1974, has been amended numerous times and the Commission's jurisdiction has increased, the Commission's current fiscal year budget is approximately the same as the budget it received 15 years ago in 1990.

As part of the planning process, commissioners have been discussing the FPPC's current resources, overall mission, previous accomplishments and recommendations, and potential goals for

*(continued on page 2)*

**California  
Fair Political  
Practices Commission**

**Commissioners**

Liane Randolph, Chair  
Philip Blair  
Sheridan Downey III  
A. Eugene Huguenin, Jr.  
Ray Remy

**Commission Meetings**

Meetings are generally scheduled monthly in the Commission Hearing Room, 428 J Street, 8<sup>th</sup> Floor, Sacramento. Please contact the Commission or check the FPPC web site, <http://www.fppc.ca.gov>, to confirm meeting dates.

Pursuant to section 11125 of the Bagley-Keene Open Meeting Act, the FPPC is required to give notice of its meetings ten (10) days in advance of the meeting. In order to allow time for inclusion in the meeting agenda and reproduction, all Stipulation, Decision and Order materials must be received by the FPPC no later than three (3) business days prior to the 10-day notice date.

The Commission meeting agenda and supporting documents are available free of charge on the Commission's web site at <http://www.fppc.ca.gov>. Additionally, past and future agendas are posted on the web site.

## ...Strategic Plan Discussion Continues

*(Continued from page 1)*

improving services to the public and regulated community. The FPPC's strategic plan was last revised in 1998-99, although annual planning objectives have been adopted in subsequent years.

The October 12 Commission meeting is scheduled to begin at 10 a.m. in the FPPC's 8th floor hearing room at 428 J Street, Sacramento. The meeting agenda and supporting materials will be posted on our website 10 days prior to the meeting at:

<http://www.fppc.ca.gov/index.html?id=329>

## Fair Political Practices Commission 2005 Commission Meeting Schedule

The Fair Political Practices Commission currently plans to meet on the following dates during the remainder of calendar year 2005:

**Wednesday, October 12 (10 a.m.)**  
**Thursday, November 3**  
**Thursday, December 1**

Meetings generally begin at 9:45 a.m. in the FPPC's 8th floor hearing room at 428 J Street, Sacramento. But please check the FPPC website regularly as dates and times can change. The direct link to our agenda page is:

<http://www.fppc.ca.gov/index.html?id=329>

The FPPC *Bulletin* is published by the Fair Political Practices Commission  
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Enforcement hotline: 1-800-561-1861

The *Bulletin* is published quarterly on the FPPC web site. To receive the *Bulletin* by e-mail, use our web site Mailing Lists tool at <http://www.fppc.ca.gov/index.html?id=408>

## Several Newly Revised Publications Are Now Available On the Commission's Website

The FPPC has produced newly revised publications on the subjects of lobbying disclosure; gifts, travel and honoraria, and conflict-of-interest rules.

The publications are intended to help the regulated community and public better understand the requirements of the Political Reform Act and Commission regulations interpreting the Act.

The Commission, at its July meeting, approved a new FPPC Lobbying Disclosure Manual. The manual incorporates the latest changes to the Act and regulations. In addition, FPPC staff members have reformatted the manual, eliminated duplicate information on completing forms, and added more examples and frequently asked questions.

The manual includes chapters on who must file, when and where to file, certification and registration, quarterly disclosure reports, recordkeeping and other important subjects.

The manual is available on the FPPC's website at:

<http://www.fppc.ca.gov/index.html?id=9#20051>

### Lobbying Disclosure Information Manual

California Fair Political  
Practices Commission

Toll-free advice line: 1 (866) ASK-FPPC  
Web site: [www.fppc.ca.gov](http://www.fppc.ca.gov)

July 2005

### Can I vote?

A Basic Overview  
Of Public Officials'  
Obligations Under the  
Political Reform Act's  
Conflict-of-Interest Rules



California  
Fair Political  
Practices  
Commission

Two newly revised fact sheets provide an overview of limitations and restrictions on gifts, honoraria, travel and loans. One fact sheet is for:

- ◆ local elected officers and candidates for local elective office, local officials specified in Government Code section 87200, judicial candidates and designated employees of local government agencies.

The other publication is for:

- ◆ elected state officers and candidates for elective state office, members of state boards and commissions, designated employees of state government agencies, and state officials who manage public investments.

The new fact sheets cover a number of topics,

*(Continued on page 4)*

## ...New Publications

(Continued from page 3)

including what is a "gift" under the law, exceptions, travel payments, limitations on loans and other subjects. The fact sheets are on the web at:

<http://www.fppc.ca.gov/index.html?id=54#fact>

The FPPC also has revised its fact sheet and booklet entitled, "Can I Vote? A Basic Overview of Public Officials' Obligations Under the Political Reform Act's Conflict-of-Interest Rules." The booklet, targeted at local officials, provides an overview of the eight-step process and includes a new section on regulation 18702.5 and when an official with a conflict must step down from the dais and leave the room before a discussion or vote commences.

The fact sheet can be found at:

<http://www.fppc.ca.gov/index.html?id=37>

### Limitations and Restrictions on Gifts, Honoraria, Travel and Loans

#### A Fact Sheet for

- Local Elected Officers and Candidates for Local Elective Offices
- Local Officials Specified in Government Code Section 87200
- Judicial Candidates
- Designated Employees of Local Government Agencies

California Fair Political Practices Commission

Toll-free advice line: 1 (866) ASK-FPPC  
Web site: [www.fppc.ca.gov](http://www.fppc.ca.gov)

August 2005

## Additional Lobbyist Ethics Course Set for November 2

California Government Code section 86103 requires lobbyists to attend an ethics orientation course as a condition of registration.

The Legislature's ethics committees have added an additional ethics course date to the 2005 schedule. The course will be conducted in Sacramento on Wednesday, November 2, 2005. Any lobbyist who has not completed the ethics course requirement for the 2005-2006 legislative session should attend this course.

Advance sign-up is required. For additional information and to obtain a sign-up form, contact the Senate Committee on Legislative Ethics at (916) 651-1507. A sign-up form will be faxed to you. As space is limited, it is recommended that you sign up early. Spaces are filled in the order that completed sign-up forms, accompanied by checks paying the \$25 course fee, are received in the office of the Senate Legislative Ethics Committee.

### IMPORTANT:

- ◆ Any lobbyist who does not complete the required ethics course and fails to comply with the related deadline to file an amended Form 604 certifying his or her ethics completion date is prohibited from acting as a lobbyist in California and may be subject to criminal penalties and substantial fines.
- ◆ There is no provision for waiver of the ethics requirement or for an extension of the completion deadline; nor is there a provision for an extension of the deadline to file an amended Form 604 (*Lobbyist Certification Statement*) with the office of the Secretary of State certifying an ethics completion date (see FPPC Form 604 instructions page).

## Overview of Reporting Rules Relating to Committee Sponsors

FPPC regulation 18215 defines the term “contribution” for purposes of determining when an entity or organization qualifies as a “committee” under the Political Reform Act and what information the committee must report on its campaign disclosure statements. The regulation also includes exceptions for certain types of payments.

One of those exceptions is found in subdivision (c)(16) of regulation 18215. It allows a political committee’s sponsoring organization to pay for the “establishment and administration” of the committee without counting those payments as contributions to the committee.

A “sponsoring organization” is usually an entity (such as a business entity) or an organization (such as a trade association or labor organization) that does one of the following: 1) provides 80 percent or more of the contributions received by the committee, either directly or from the entity’s or organization’s members, officers, employees, or shareholders; 2) collects contributions for the committee through payroll deductions or dues; 3) provides all or nearly all of the committee’s administrative services; or 4) sets the policies for soliciting contributions or making expenditures of committee funds. A candidate or other individual cannot sponsor a committee. (See Gov. Code section 82048.7.)



Regulation 18215(c)(16) defines “establishment and administration” of a sponsored committee to mean the cost of office space, phones, salaries, utilities, supplies, legal and accounting fees, and other expenses incurred in setting up and running a sponsored committee. Although these costs are not contributions from the sponsor to the committee, the committee must report them on Schedule C (Nonmonetary Contributions Received) of its campaign disclosure reports (Form 460). The amount paid by the sponsor during the reporting period is disclosed in the “Description of Payment” column on Schedule C, with zeroes in the “Amount” columns.

Other costs paid by a sponsoring organization are contributions to the committee, such as the cost of raising funds for the committee, and are subject to regular reporting and to contribution limits for committees that make contributions to state candidates.

In addition, if the sponsoring organization provides services to a candidate or a committee other than its sponsored committee, those payments are contributions to the candidate or committee, which must be reported by the sponsoring organization. (See FPPC regulation 18419.) The sponsoring organization can file its own reports to disclose the contri-

*(Continued on page 6)*



## ...Overview of Reporting Rules Relating to Committee Sponsors

(Continued from page 5)

butions or, in most circumstances, the contributions can be disclosed on the sponsored committee's campaign statements.

### Examples:

*Members of Firefighters Local 524 have formed a political action committee and have earmarked a portion of their union dues for political contributions to support candidates and ballot measures. Local 524 collects the contributions and transmits them to the committee and pays for legal and accounting services to prepare the committee's campaign reports. The committee discloses the earmarked dues payments as monetary contributions from the members on Schedule A of its campaign reports, but need not count as contributions payments made by Local 524 to collect the funds or for the legal and accounting services. The committee will report the value of the administrative services in the "Description of Goods or Services" column on Schedule C of its campaign reports.*

*The members of the California Tree Doctors Association make regular dues payments to the association, a portion of which is earmarked for the association's sponsored committee to be used for contributions to state candidates. The association collects and transmits the earmarked dues payments to the committee and provides the committee with office space, staff, and accounting services. The committee discloses the earmarked member dues as monetary contributions on Schedule A of its campaign reports and the administrative services from the association in the "Description of Goods or Services" column on Schedule C. During 2006, the association sends a special mailing to its members to raise additional funds for the upcoming state elections. The association also hosts a golf tournament to raise funds to support the association's activities generally, but the invitation to the golf tourna-*

**(c) Notwithstanding any other provision of this section, the term "contribution" does not include:**

**...(16) A payment by a sponsoring organization for the establishment and administration of a sponsored committee, provided such payments are reported. Any monetary payment made under this subdivision to the sponsored committee shall be made by separate instrument. A "sponsoring organization" may be any person (see Gov't Code 82047) except a candidate or other individual (see Gov't Code 82048.7). "Establishment and administration" means the cost of office space, phones, salaries, utilities, supplies, legal and accounting fees, and other expenses incurred in setting up and running a sponsored committee.**

**— Regulation 18215 (c)(16)**

*ment will include a reply card allowing participants to make additional contributions to the committee. The committee must disclose the payments made by the association for the solicitation mailing and the portion of the costs for the golf tournament invitations that are attributable to the solicitation for the committee on Schedule C as nonmonetary contributions from the association (rather than administrative services). Because the committee makes contributions to state candidates, contributions to the committee are limited to \$5,600 from each source during 2006, including those made to the committee by the sponsoring organization.*

Contact the FPPC's toll-free Help Line at 1-866-ASK FPPC if you need assistance.



## The Clerks' Corner

### Answering Your Questions

By Kevin S. Moen  
FPPC Political Reform Consultant

#### Procedures for Committee Non-Filers

- Q: What are my duties as a filing officer if a committee has not filed its campaign statement that was due August 1, 2005?*
- A:* Clerks are required to contact those who did not file on time. The first contact may be made by phone, letter, or in person. If, after this initial contact, the committee has still not filed, a letter should be sent. The FPPC suggests a minimum of two written letters to non-filers. Finally, if the committee does not file, contact our Enforcement Division, providing the name and contact information on the non-filer, and information concerning the alleged violation. At this point, your responsibilities regarding the statement for this non-filer have ended.

#### Which Candidates Must File the Form 700?

- Q: Which candidates for local office are required to file a candidate statement of economic interests?*
- A:* The list of candidates for local offices that are required to file a candidate statement of economic interests is set forth below. A copy of this candidate statement is maintained by your office and must be made available to the public upon request; the original is sent to the FPPC. Candidates for other local offices are not required to file a candidate

statement unless the conflict-of-interest code requires such a filing. If you receive a statement from a candidate not listed below, do not forward this statement to us.

Offices of Candidates Who Must File a Candidate Statement:

- ◆ Member of the Board of Supervisors
- ◆ District Attorney
- ◆ County Counsel
- ◆ County Treasurer
- ◆ Mayor
- ◆ City Council
- ◆ City Attorney

#### Local Campaign Finance Laws

- Q: To whom should I refer a candidate with questions concerning our local campaign finance law?*
- A:* If candidates have questions concerning local law, the FPPC is unable to provide them with advice, since we interpret and enforce only those provisions found in the Political Reform Act. Questions about city campaign rules should be referred to the city attorney. Questions about county rules are usually answered by the county counsel's office.

#### No ID Required to Review Statements

- Q: Georgia comes into your office and requests to see the campaign statements from the last election and latest statement of economic interests for your mayor. What may you do?*

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- A. Provide a copy for her to review at the counter at no cost.
- B. Require her to sign a request form before providing her with the documents.
- C. Require her to provide a valid California driver's license before providing her with the documents.
- D. If she wants to take the documents out of the office, charge her no more than \$.10 per page for copying.

A: You may do both A and D. Do not request a signature or any identification from a member of the public who requests to review any of the statements required under the Political Reform Act. These are public documents. You may not charge if the requestor simply wants to review the statements in your office. However, if they request a copy to take out of your office, you may charge up to \$.10 per page.

### Co-Sponsored Events

Q: *The mayor has asked various businesses to help sponsor a youth day by the city's Boys and Girls Club. Several businesses have contributed printing, ad space, refreshments, prizes, games, etc. Are any of these payments required to be reported by the mayor?*

A: If any one person or business provides goods or services worth \$5,000 or more in a calendar year at the mayor's request for a legislative, governmental, or charitable purpose, the mayor must file a report with the city clerk within 30 days of the payments being made. This type of event would qualify. The report must provide the following information:

- ◆ Name and address of payor
- ◆ Amount of payment
- ◆ Date(s) the payment(s) was made
- ◆ Name and address of the payee
- ◆ Brief description of the goods or services provided or purchased, if any
- ◆ Description of the specific purpose or

event for which the payment(s) was made

All elected officeholders have this reporting obligation. There is no specific form on which this information must appear. However, a sample format can be found in our manual for local candidates (Manual 2) on page 8-2. The information is filed with your office and must be made available to any member of the public who requests it.

### How to Get a Filing Schedule

Q: *Our city is having an election in 2006. I have looked on the FPPC website, but can't find a filing schedule for the exact date of our election. How do I get a schedule?*

A: You may call our toll-free help line (866/275-3772) and request a filing schedule for your jurisdiction. Please give us a week's notice, although we usually will provide you with a schedule in much less time.



### **Filing Officers!**

**The FPPC's toll-free advice line  
is also for you. Call**

**1-866-ASK-FPPC  
(1-866-275-3772)**

**with your questions on forms and other  
issues.**



## Meeting Summaries

Summaries of actions at the Commission's regular monthly meetings are posted on the Commission's website at:

<http://www.fppc.ca.gov/index.html?id=63>

See the following article for a summary of enforcement actions.

## Enforcement Summaries

### September Commission Meeting

#### Campaign Reporting Violations (Default Decision)

**In the Matter of Omar Bradley, FPPC No. 01/632.** Staff: Commission Counsel Natalie Bo-canegra. Respondent Omar Bradley was a candidate for Mayor of the City of Compton in the April 17, 2001, election, and in the June 5, 2001, run-off election. Respondent Bradley previously served as Mayor of the City of Compton from 1993 until his defeat in the June 5, 2001, run-off election. Respondents Committee to Elect Omar Bradley, Committee to Re-elect Omar Bradley Mayor, and Friends of Omar Bradley, were controlled committees of Respondent Bradley. Respondents failed to timely file semi-annual and pre-election campaign statements for a number of consecutive campaign periods, with the first period beginning January 1, 1999, and the last ending December 31, 2004, in violation of Government Code section 84200, subdivision (a) (30 counts) and Government Code section 84200, subdivision (c) (9 counts). \$73,500 fine.

### Campaign Reporting Violations

**In the Matter of Paul V. Gallegos, Paul V. Gallegos for District Attorney, and Stephen P. Arnot, FPPC No. 03/107.** Staff: Commission Counsel Galena West and Supervising Investigator Dennis Pellón. Respondent Paul V. Gallegos was a first-time successful candidate for District Attorney of Humboldt County in a local election held on March 5, 2002. Respondent Paul V. Gallegos for District Attorney Committee is the controlled committee of Respondent Paul V. Gallegos, and Respondent Stephen P. Arnot is the treasurer of Respondent Committee. Respondents failed to disclose a \$2,500 late contribution in a properly filed late contribution report, in violation of Government Code section 84203, subdivision (a) (1 count); failed to disclose occupation and employer information for contributions of \$100 or more, in violation of Government Code section 84211, subdivision (f) (2 counts); failed to return contributions totaling \$6,835 within 60 days of receipt for which they did not have occupation and employer information, in violation of Government Code section 85700 (2 counts); and failed to timely file a post-election semi-annual campaign statement, in violation of Government Code section 84200, subdivision (a) (1 count). \$10,000 fine.

**In the Matter of David Dhillon, David Dhillon Campaign, Dhillon for Supervisor, and Dhillon for Assembly, FPPC No. 00/658.** Staff: Assistant Division Chief William L. Williams, Jr. and Accounting Specialist William Marland. Respondent David Dhillon was an unsuccessful candidate for the Imperial County Board of Supervisors in the 2000 general election and was an unsuccessful candidate for re-election to the El Centro City Council in the 2001 general election. Respondents David Dhillon and David Dhillon Campaign violated the Political Reform Act by failing to file a pre-election campaign statement, in violation of Government Code section 84200.5, subdivision (b) (1 count). Respondents David Dhillon and Dhillon for Supervisor violated the Political Reform Act by failing

(Continued on page 10)

(Continued from page 9)

to file a statement of intention to become a candidate, in violation of Government Code section 85200 (1 count); by failing to disclose contributions in violation of Government Code section 84211, subdivision (f) (3 counts); and by failing to disclose an expenditure, in violation of Government Code section 84211, subdivision (k) (1 count). Respondents David Dhillon and Dhillon for Assembly violated the Political Reform Act by failing to file a pre-election campaign statement, in violation of Government Code section 84200.5, subdivisions (a) and (c) (2 counts); and by failing to file a semi-annual campaign statement in violation of Government Code section 84200, subdivision (a) (1 count). \$19,000 fine.

### **Major Donor – Streamlined Program**

**Failure to Timely File Major Donor Campaign Statements.** Staff: Chief Investigator Sue Straine and Political Reform Consultant Mary Ann Kvasager. The following persons and entities have entered into stipulations for failing to file major donor campaign statements that were due during the calendar years of 2000, 2001, 2002, and 2003, in violation of Government Code Section 84200:

- ◆ **In the Matter of Dave Brooks, FPPC No. 05-0308.** Dave Brooks of Santa Clarita failed to timely file a semi-annual campaign statement disclosing contributions totaling \$25,000 in 2001 (1 count). \$400 fine.
- ◆ **In the Matter of Arrowhead Credit Union, FPPC No. 05-0320.** Arrowhead Credit Union of San Bernardino failed to timely file semi-annual campaign statements disclosing contributions totaling \$28,715.50 in 2000 (2 counts); \$13,250 in 2001 (1 count); \$39,683 in 2002 (2 counts); and \$22,793 in 2003 (1 count). \$3,444.41 fine.
- ◆ **In the Matter of Reed Smith LLP, FPPC No. 05-0394.** Reed Smith LLP of Pittsburgh, Pennsylvania, failed to timely file a semi-

annual campaign statement disclosing contributions totaling \$10,000 in 2001 (1 count). \$400 fine.

### **Late Contribution – Streamlined Program**

**Failure to Timely File Late Contribution Reports – Proactive Program.** Staff: Chief Investigator Sue Straine and Political Reform Consultant Mary Ann Kvasager. The following entity has entered into a stipulation for failure to file a late contribution report in 2002, in violation of Government Code Section 84203:

- ◆ **In the Matter of California Dental Association Issues Fund, FPPC No. 04-0736.** California Dental Association Issues Fund of Sacramento failed to timely disclose a late contribution totaling \$25,000 in 2002. (1 count). \$3,500 fine.
- ◆ **In the Matter of Elliott Broidy and Affiliated Entities, FPPC No. 05-0378.** Elliott Broidy and Affiliated Entities of Los Angeles failed to timely disclose a late contribution totaling \$10,000.00 in 2004 (1 count). \$1,500 fine.
- ◆ **In the Matter of Los Angeles County Firefighters Local 1014 Legislative Fund Committee, FPPC No. 05-0384.** Los Angeles County Firefighters Local 1014 Legislative Fund Committee of El Monte failed to timely disclose late contributions totaling \$15,000.00 in 2004 (2 counts). \$2,250 fine.

## **July Commission Meeting**

### **Major Donor – Streamlined Program**

**Failure to Timely File Major Donor Campaign Statements.** Chief Investigator Sue Straine and Political Reform Consultant Mary Ann Kvasager. The following persons and entities have entered into stipulations for failing to file major

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(Continued from page 10)

donor campaign statements that were due during the calendar years of 2000, 2001, 2002 and 2003, in violation of Government Code section 84200:

- ♦ **In the Matter of James F. Rooney/Julie A. Rooney, FPPC No. 05-0202.** James F. Rooney/Julie A. Rooney of Portola Valley failed to timely file a semi-annual campaign statement disclosing contributions totaling \$10,000.00 in 2003 (1 count). \$400 fine.
- ♦ **In the Matter of Hanna, Brophy, MacLean, McLeer & Jensen, LLP, FPPC No. 05-0289.** Hanna, Brophy, MacLean, McLeer & Jensen, LLP, of Oakland failed to timely file semi-annual campaign statements disclosing contributions totaling \$12,128.00 in 2000, (1 count); \$27,450.00 in 2002, (1 count); and \$27,200.00 in 2003, (3 counts). \$2,274.50 fine.
- ♦ **In the Matter of Stuart Moldaw, FPPC No. 05-0297.** Stuart Moldaw of Menlo Park failed to timely file a semi-annual campaign statement disclosing contributions totaling \$30,000.00 in 2001 (1 count). \$400 fine.

## June Commission Meeting

### Money Laundering

**In the Matter of Sidney E. Frank, FPPC No. 04/001.** Staff: Senior Commission Counsel Julia Bilaver and Supervising Investigator Dennis Pellón. Prior to the March 5, 2002 primary election, Respondent Sidney E. Frank made 10 contributions to San Diego County Sheriff William B. Kolender in the names of other people, in violation of Government Code section 84301 (10 counts). \$40,000 fine.

**In the Matter of Jeffrey P. Peace, FPPC No. 04/001.** Staff: Senior Commission Counsel Julia Bilaver and Supervising Investigator Dennis Pellón. Prior to the March 5, 2002 primary election, Respondent Jeffrey P. Peace aided and abetted Sidney E. Frank in the making of 10 con-

tributions to San Diego County Sheriff William B. Kolender in the names of other people, in violation of Government Code section 84301 (10 counts). \$40,000 fine.

### Late Contribution Reporting Violations - Streamlined Program

**Failure to Timely Disclose Late Contributions – Proactive Program.** Staff: Chief Investigator Sue Straine and Political Reform Consultant Mary Ann Kvasager. The following persons and entities have entered into stipulations for failing to timely disclose late contributions in 2003 and 2004, in violation of Government Code Section 84203:

- ♦ **In the Matter of Michael R. Kelly, FPPC No. 04-145.** Michael R. Kelly of San Diego failed to timely disclose a late contribution of \$16,200.00 in 2003 (1 count). \$2,430 fine.
- ♦ **In the Matter of California State Pipe Trades Council Political Action Fund, FPPC No. 05-122.** California State Pipe Trades Council Political Action Fund of Sacramento failed to timely disclose late contributions totaling \$26,200.00 in 2003 (2 counts). \$3,930 fine.
- ♦ **In the Matter of John G. Morris, FPPC No. 05-131.** John G. Morris of Los Angeles failed to timely disclose a late contribution of \$10,000.00 in 2004 (1 count). \$1,500 fine.

**FPPC**  
**Toll-free Advice Line:**  
**1-866-ASK-FPPC**  
**(1-866-275-3772)**



## Web Update: [www.fppc.ca.gov](http://www.fppc.ca.gov)

By Jon Matthews  
FPPC Information Officer

Here are some more tips for finding various types of information on our ever-growing website:

### Filing Deadlines

Check our filing deadlines page for the latest filing schedules for 2005 and 2006 special and regular elections. The page is at this link:

<http://www.fppc.ca.gov/index.html?id=222>

Just click on the appropriate year or special election. Then click on the filing schedule that applies to your status as a candidate or committee. If you are unsure as to which filing schedule applies, please call our toll-free advice line at 1 (866) ASK-FPPC (275-3772).

### Candidate Seminars

Check our candidate seminars and workshops page for the latest scheduled seminars for candidates and treasurers. Check back as new seminars are added regularly. The page is easy to find at this link:

<http://www.fppc.ca.gov/index.html?id=23>

### The Act, Regulations and Fact Sheets

The latest version of the Political Reform Act, regulations implementing the Act, fact sheets, past issues of the *FPPC Bulletin* and many other

publications can be found in our website's library and publications section. Here's the link:

<http://www.fppc.ca.gov/index.html?id=23>

Chapter 10 of the Political Reform Act provides for an ongoing program of mandatory audits. You can learn more about this program and view those selected for audits in our audit program section. Start at this link:

<http://www.fppc.ca.gov/index.html?id=324>

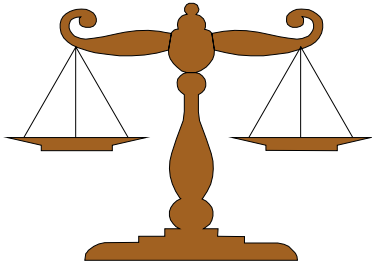


## Legislative Update

A summary of signed 2005 bills affecting the Political Reform Act will be published in our next issue. Updates on current and previous legislation can be found on the FPPC's website at :

<http://www.fppc.ca.gov/index.html?id=365>





## Litigation Report

Here is a report on pending litigation prepared for the Commission's September 1, 2005, meeting:

### ***California ProLife Council, Inc. v. Karen Getman et al.***

This action challenged the Act's reporting requirements for express ballot measure advocacy. In October 2000 the Federal District Court for the Eastern District of California dismissed certain counts and later granted the FPPC's motion for summary judgment on the remaining counts. Plaintiff appealed, and the Ninth Circuit Court of Appeal affirmed that the challenged statutes and regulations were not unconstitutionally vague, and that California may regulate ballot measure advocacy upon demonstrating a sufficient state interest in so doing. However, the Ninth Circuit remanded the matter back to the district court to determine whether California could in fact establish an interest sufficient to support its committee disclosure rules, and that those disclosure rules are properly tailored to that interest. On February 22, 2005, the court granted defendants' motion for summary judgment on these questions. Plaintiff has again appealed. The parties are now briefing the case, and expect that the appeal will be heard and decided early in the coming year.

### ***FPPC v. Agua Caliente Band of Cahuilla Indians, et al.***

The FPPC alleges in this action that the Agua Caliente Band of Cahuilla Indians con-

tributed more than \$7.5 million to California candidates and ballot measure campaigns between January 1 and December 31, 1998, but did not timely file major donor reports disclosing those contributions, and likewise failed to disclose more than \$1 million in late contributions made between July 1, 1998, and June 30, 2002. The FPPC later amended the complaint to add a cause of action alleging that the tribe failed to disclose a \$125,000 contribution to the Proposition 51 campaign on the November 5, 2002, ballot. Defendants responded to the lawsuit by filing a motion to quash service, alleging that they could not be civilly prosecuted because of tribal sovereign immunity. On February 27, 2003, the Honorable Loren McMaster of the Sacramento County Superior Court ruled in the FPPC's favor. Defendants filed a petition for writ of mandate in the Third District Court of Appeal, challenging the decision of the trial court. The petition was summarily denied on April 24, 2003, whereupon defendants filed a petition for review in the California Supreme Court. On July 23, 2003, the Supreme Court granted review and transferred the case back to the Court of Appeal. On March 3, 2004, the Court of Appeal affirmed the Superior Court's decision, concluding that "the constitutional right of the state to preserve its republican form of government trumps the common law doctrine of tribal immunity." On April 13, 2004, defendants filed a Petition for Review in the California Supreme Court. On June 23, 2004, the Supreme Court granted the Petition for Review. On September 23, 2004, the defendants filed an opening brief with the Supreme Court. On December 30, 2004, the FPPC filed its opposition brief. On April 1, 2005, defendants filed a closing brief. Amicus briefs have been filed by a number of interested parties.

### ***FPPC v. Santa Rosa Indian Community of the Santa Rosa Rancheria***

In this action the FPPC alleges that the Santa Rosa Indian Community of the Santa Rosa Rancheria failed to file major donor semi-annual campaign statements in the years 1998, 1999, and 2001, involving more than

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## ...Litigation Report

*(Continued from page 13)*

\$500,000 in political contributions to statewide candidates and propositions, and that defendants failed to disclose more than \$350,000 in late contributions made in October 1998. The complaint was originally filed on July 31, 2002, and was amended on October 7, 2002. On January 17, 2003, defendants filed a motion to quash service, based on its claim of tribal sovereign immunity. On May 13, 2003, the Honorable Joe S. Gray of the Sacramento County Superior Court entered an order in favor of defendants. On July 14, 2003, the FPPC appealed this decision to the Third District Court of Appeal, where the matter was scheduled for oral argument. The Attorney General filed an amicus brief in support of the FPPC's position. The court heard oral argument on October 19, 2004, and on October 27, 2004, issued a decision in favor of the Commission overturning the trial court's granting of defendant's motion to quash. The tribe filed a petition for review with California Supreme Court which was granted on January 12, 2005. However, any action on the case has been deferred pending the outcome of the Agua Caliente case.

### ***California Republican Party, et al. v FPPC et al.***

On October 12, 2004, the California Republican Party, the California Democratic Party, and the Orange County Republican Party filed a Complaint in the Federal District Court for injunctive and declaratory relief from two provisions of the Act, sections 84503 and 84506, which require a committee paying for ballot measure advertisements to identify their two highest contributors of \$50,000 or more. On October 20, 2004, plaintiffs amended their complaint, and noticed a motion for temporary restraining order to be heard on October 26, 2004. The FPPC filed its opposition to this motion on October 22. The Attorney General's of-

fice represented the Commission at the hearing before the Honorable Frank C. Damrell, Jr. The next day, the court issued a preliminary injunction enjoining the Commission from enforcing the provisions of the Act above against plaintiffs. Magistrate-Judge Peter Nowinski recently conducted two settlement conferences, on April 11 and May 2, 2005.

### ***Citizens to Save California, et al. v. FPPC***

On February 8, 2005, Citizens to Save California and Assembly Member Keith Richman filed a Complaint for injunctive and declaratory relief in Sacramento Superior Court challenging the Commission's adoption of regulation 18530.9 in June, 2005, which imposed on candidate-controlled ballot measure committees the contribution limit applied to the controlling candidate. Plaintiffs claim that the regulation violates the First Amendment, and that the Commission lacked statutory authority to adopt the regulation. Another group of plaintiffs led by Governor Schwarzenegger intervened in the action, and the court granted plaintiffs' motion for preliminary injunction, barring FPPC enforcement of regulation 18530.9 pending final disposition of the lawsuit. The Commission appealed, noting that the Superior Court's injunction was stayed while the appeal was pending. On April 25, the Superior Court determined that its injunction remained in effect, and a writ petition challenging this finding in the Court of Appeal was denied. Ruling next on the Commission's demurrer to the complaints, on May 26 Judge Chang indicated that further proceedings in the Superior Court were stayed pending resolution of the Commission's appeal of the preliminary injunction. The Court of Appeal has not yet set a briefing schedule. Meanwhile, TheRestofUs.org filed a lawsuit against the Governor, his California Recovery Team and Citizens to Save California, seeking a declaration that those committees are subject to the candidate contribution limits applicable to the Governor. Defendants filed a motion to dismiss and a motion for preliminary injunction, which were denied by Judge Chang on August 11, 2005. The Commission is not a party to this action.

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## ...Litigation Report

(Continued from page 14)

### ***FPPC v. Democratic National Committee, Non-federal-Corporate et al.***

In a lawsuit filed in the Sacramento Superior Court on February 25, 2005, the FPPC alleges that a California campaign committee sponsored by the national Democratic Party committee, and the treasurers of that committee, failed to file a campaign statement disclosing \$1.2 million in contributions to the California Democratic Party. Defendants filed an answer to the complaint, and a cross-complaint against the FPPC seeking declaratory and injunctive relief. The cross-complaint alleges that Government Code section 83115.5 requires the FPPC to hold a probable cause conference prior to instituting a civil enforcement action against a prospective defendant. The cross-complaint also alleges that FPPC regulation 18361.8, which defendants interpret as eliminating the procedures for bringing a civil action, violates a respondent's right to due process. On May 5, 2005, the Commission filed a demurrer to the cross-complaint, which was affirmed without leave to amend at hearing on June 23, when the court concluded that due process did not require a probable cause conference prior to commencement of a civil action, nor any other proceedings beyond the protections afforded to all litigants. On July 7, 2005, the court issued its final order in the matter, dismissing the cross-complaint.

### ***Professional Engineers in California Government (PECG), et al. v. Secretary of State, et al.***

On August 2, 2005, plaintiffs served the FPPC and others with a writ of mandate and a complaint for declaratory filed in Sacramento Superior court. The primary purpose of the suit was to secure an injunction barring the Secretary of State and the State Printer from includ-

ing a version of Proposition 75 in the voters' ballot pamphlet which differed from the written version circulated while gathering signatures to qualify the initiative for the November 8, 2005 ballot. The text of Proposition 75, which would prohibit the use of public employees' union dues for political contributions without individual employees' prior consent, was to be delivered to the State Printer on August 15, 2005. The FPPC was named as a defendant because the proposed initiative would affect the Act if passed. On August 12, 2005, the Hon. Gail Ohanesian denied plaintiffs' request for injunctive and declaratory relief as to all parties and all causes of action.



**Fair Political Practices  
Commission  
Toll-free Advice Line:  
1-866-ASK-FPPC  
(1-866-275-3772)**

## FPPC Advice Summaries

Formal written advice provided pursuant to Government Code section 83114 subdivision (b) does not constitute an opinion of the Commission issued pursuant to Government Code section 83114 subdivision (a) nor a declaration of policy by the Commission. Formal written advice is the application of the law to a particular set of facts provided by the requestor. While this advice may provide guidance to others, the immunity provided by Government Code section 83114 subdivision (b) is limited to the requestor and to the specific facts contained in the formal written advice. (Cal. Code Regs., tit. 2, §18329, subd. (b)(7).)

Informal assistance may be provided to persons whose duties under the act are in question. (Cal. Code Regs., tit. 2, §18329, subd. (c).) In general, informal assistance, rather than formal written advice is provided when the requestor has questions concerning his or her duties, but no specific government decision is pending. (See Cal. Code Regs., tit. 2, §18329, subd. (b)(8)(D).)

Formal advice is identified by the file number beginning with an "A," while informal assistance is identified by the letter "I." Letters are summarized by subject matter and month issued.

## Campaign

**C. April Boling**  
**Friends to Re-elect Richman**  
**Dated: July 8, 2005**  
**File Number A-05-110**

A candidate's treasurer is advised that a closed committee may reopen to raise funds to pay debt that was unknown to the committee at the time it was closed.

**Bianca Pirayou**  
**Pirayou Law Offices**  
**Dated: July 8, 2005**  
**File Number A-05-125**

A candidate's post-election funds that were inadvertently held too long and became surplus may not be transferred to the candidate's committee for future state elective office.

**Colleen C. McAndrews**  
**Bell, McAndrews & Hiltachk**  
**Dated: June 17, 2005**  
**File Number A-04-223**

A treasurer is advised that certain contributions received after an election that turned out to be in excess of the committee's final net debt later did not need to be returned pursuant to the "excess contributions" rule, and instead could be returned to contributors as authorized by section 85319.

**William R. Turner**  
**Turner, Laub & Escovar, CPA**  
**Dated: June 8, 2005**  
**File Number A-05-020**

A campaign committee may employ a third party provider to receive contributions through a website, and transmit those contributions to the committee semi-monthly.

**Chuck Robinson**  
**City of Walnut**  
**Dated: June 2, 2005**  
**File Number I-05-097**

This letter provides general information about limitations on contributions and independent expenditures at the local level, and the ability of local jurisdictions to regulate such activities. The letter also provides general guidance about mass mailings that oppose candidates and whether these mailings would be considered an independent expenditure in all cases.

**Pamela Lawton Wilson**  
**Sullivan Wertz McDade & Wallace**  
**Dated: June 20, 2005**  
**File Number A-05-101**

Costs and proceeds directly associated with the political fundraising portion of a golf tournament, including certain costs associated with produc-

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ing and mailing the invitations to an event, will be considered sponsored committee receipts and expenditures.

**Norman Sato**  
**City of San Jose**  
**Dated: June 13, 2005**  
**File Number I-05-105**

Regulation 18423 defines "contribution" to include employee services donated by an employer, if the employee spends 10 percent or more of his or her compensated time in a calendar month rendering services for political purposes. The regulation includes an exception for personal services provided pursuant to a uniform policy allowing employees to engage in political activity. The letter advises that, generally, a "uniform policy" means that all employees are allowed to spend some amount of their compensable time on political activities of their own choosing.

**Lorrie L. Brewer**  
**City of Santa Cruz**  
**Dated: June 7, 2005**  
**File Number A-05-109**

In connection with an August 30, 2005, ballot measure election, committees may use a filing schedule that combines the semi-annual campaign statement with the first pre-election statement due on July 21, 2005.

**Carla Gordon**  
**County of Yuba**  
**Dated: June 7, 2005**  
**File Number A-05-111**

In connection with an August 30, 2005, election, candidates and committees may use a filing schedule that combines the semi-annual campaign statement with the first pre-election statement due on July 21, 2005.

**Suzanne Jackson**  
**County of Santa Barbara**  
**Dated: June 17, 2005**  
**File Number A-05-116**

This letter combines the July semi-annual and first pre-election campaign statements in connection with a September 13, 2005, election.

**David Bauer**  
**McClintock for Senate and McClintock for Lt. Governor**  
**Dated: May 31, 2005**  
**File Number A-04-267**

An elected official is advised on transfer rules among a candidate's current and future office accounts. The ban on post-election fundraising prohibits transferring leftover funds in an unsuccessful campaign account to the candidate's current office account that does not have net debt.

**Dianne McHugh**  
**County of Contra Costa**  
**Dated: May 2, 2005**  
**File Number A-05-078**

The filing officer was advised that there is a mechanism in section 84205 that permits the combining of statements when an overlapping reporting period occurs or the filing of the semi-annual statement would be an additional, unnecessary filing to the two pre-election statements.

**Bruce Perelman**  
**Los Angeles County Employees' Retirement Association**  
**Dated: May 31, 2005**  
**File Number A-05-083**

This letter advises that the Act does not regulate the campaign activities of individuals running for the Board of Investments of Los Angeles County Employees' Retirement Association, and, therefore, the Act's contribution rules do not apply to these individuals. However, the payments are gifts subject to reporting, limitations, and conflict-of-interest provisions. The letter rescinds the Koppes advice letter No. A-94-121 in its entirety.

**Irene Sundberg**  
**City of Tracy**  
**Dated: May 27, 2005**  
**File Number A-05-087**

A city council member sought advice regarding provisions of the Act regulating receipt of contributions and gifts. The council member wanted to know if payments made to her or solicited by her for a local non-profit agency

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would constitute reportable campaign contributions or gifts to her. The official was advised that under the facts she provided, the payments were not reportable contributions or gifts because they were received principally for a charitable purpose. Thus the payments fall under amendments in the 1997 definition of "contribution" for co-sponsored events. Also, the official was advised that there is required public disclosure of these payments once a threshold (\$5,000 aggregate amount per source) is met and exceeded.

**Crystal Bertheau**  
**County of Santa Cruz**  
**Dated: May 6, 2005**  
**File Number A-05-088**

This letter authorizes a county to combine a second pre-election statement with the semi-annual statement due July 31, 2005, for a July 26, 2005, ballot measure election.

**Bonnie Stone**  
**City of San Diego**  
**Dated: May 6, 2005**  
**File Number A-05-090**

This letter authorizes a city to combine a second pre-election statement with the semi-annual statement due July 31, 2005, for a July 26, 2005, special election.

**Robin Bjerke**  
**County of Placer**  
**Dated: May 17, 2005**  
**File Number A-05-093**

In connection with an August 23, 2005, ballot measure election, committees may use a filing schedule that combines the semi-annual campaign statement with the first pre-election statement due on July 14, 2005.

**Thomas A. Willis**  
**Remcho, Johansen & Purcell**  
**Dated: May 24, 2005**  
**File Number A-05-098**

This letter advises that interest accrued on pre-Proposition 34 funds may be transferred to a candidate's committee for future office without attribution in the same manner as the pre-34 funds.

## Conflicts of Interest

**Jeffrey G. Scott**  
**Vallecitos Water District**  
**Dated: July 7, 2005**  
**File Number I-05-107**

A member of the board of directors of a water district who is an employee of the city which is served by the district may participate in district decisions, provided there is no personal financial effect.

**Jim Gates**  
**Torrance Airport Commission**  
**Dated: July 12, 2005**  
**File Number A-05-112**

An airport commissioner, who rents a city-owned hangar, is advised that he may not participate in decisions by the airport commission about changes to the standard agreement for renting city-owned hangars at the airport.

**Iris P. Yang**  
**City of Yuba**  
**Dated: July 29, 2005**  
**File Number I-05-113**

Two city council members sought advice as to several issues: (1) Whether income received outside the official's jurisdiction would be considered for purposes of applying the "public generally exception" under regulation 18707.5; (2) Whether a council member would be required to disqualify himself from participating in a decision affecting a customer if the council member does not "have reason to know" that such a person is a customer of his; and (3) Whether a council member may participate in city council decisions involving a developer who makes a tax-deductible contribution to a foundation, which is a source of income to the council member's wife. They were advised that: (1) An official may consider only income received in the official's jurisdiction in applying regulation 18707.5; (2) If the requirements under regulation 18707.5(c) are met, the council member would not be required to disqualify himself from participating in a decision affecting a customer if he does not "have reason to know" that such a

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person is a customer of his; and (3) The council member may not participate in city council decisions involving a developer who has made a tax-deductible contribution to the Foundation if the contribution will result in a material financial effect on his sources of income or his personal finances and those of his immediate family.

**Heather C. McLaughlin**  
**City of Benicia**  
**Dated: July 27, 2005**  
**File Number A-05-124**

Two members of a city council are advised regarding the Act's segmentation process for decisions where they each would otherwise have a potential conflict of interest. The governmental decision involved a joint use agreement between the city and the local school district to maintain certain school property as some of the properties are located within 500 feet of property owned by each of the public officials. Under the segmentation process, the properties for which conflicts exist are to be segmented into separate decisions.

**Guadalupe Alvarez**  
**City of Guadalupe**  
**Dated: July 28, 2005**  
**File Number I-05-134**

A mayor sought advice as to whether a conflict of interest would exist if he participated in decisions involving proposed safety changes to a highway when he owned property located within 500 feet of the project. It is presumed that the material effect of the governmental decision on his property is material. Therefore, unless rebutted, he is presumed to have a conflict of interest and may not participate in this decision.

**Marguerite P. Battersby**  
**City of Highlands**  
**Dated: July 28, 2005**  
**File Number A-05-137**

A city council member may not participate in a governmental decision to provide funds to a Senior Center of which she is the Executive Director and a management employee. In

addition, the council member may also be prohibited from participating in decisions concerning providing funds to other nonprofits, unless those decisions will not have a reasonably foreseeable material financial effect on the Senior Center. Donors to the Senior Center are not economic interests of the council member and need not be reported on the council member's statement of economic interests.

**Peter N. Brown**  
**City of Carpinteria**  
**Dated: June 6, 2005**  
**File Number I-05-017**

This letter advises a city attorney on the general application of conflict-of-interest provisions to a council member who also is executive director of a local taxpayers association and a business association. The letter concludes that other members and directors of those associations are not sources of income to the council member.

**Heather C. McLaughlin**  
**City of Benicia**  
**Dated: June 15, 2005**  
**File Number A-05-041**

Three members of a city council are advised that they each have a potential conflict of interest in participating in a governmental decision regarding the city's consideration of the downtown mixed use district. The officials each own property that is located within 500 feet of property that is the subject of the governmental decision.

**Karl H. Berger**  
**City of Santa Paula**  
**Dated: June 30, 2005**  
**File Number A-05-054**

City council members and planning commissioners are advised as to potential conflicts of interest in participating in governmental decisions regarding a general plan amendment required for the approval of a large housing development project that would increase the city's population by approximately 30%. Additional advice is provided regarding the application of the "public generally" exception and specifically the determination of the "substantially the same

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manner” test under regulation 18707.1 as to public officials residing within 500 feet of the project boundaries. One council member, who owns a residence on a parcel of 19.27 acres, does not qualify for the exception because his property interest will not be affected in “substantially the same manner” as property owners in the city. Another disqualified council member, who owns a single family residence on an average size lot, may be able to participate in the project decisions if a “significant segment” can be identified that is impacted in “substantially the same manner” as the official. The letter also discusses factors that may rebut the presumption of non-materiality when special circumstances exist as a result of increased traffic and noise.

**Heather C. McLaughlin**  
**City of Benicia**  
**Dated: June 15, 2005**  
**File Number A-05-061**

Two members of a city council are advised that they each have a potential conflict of interest in participating in a governmental decision regarding a joint use agreement between the city and the local school district to maintain certain school property. The property is located within 500 feet of property owned by each of the public officials.

**Doug Buchanan**  
**Mountain-Valley Emergency Medical Services**  
**Dated: June 15, 2005**  
**File Number I-05-064**

A multi-county agency was provided informal assistance regarding the employment of a designated employee who will also hold a position with a company with which the agency has a contractual relationship. While there is nothing in the Act that prohibits a public official from holding two public positions concurrently, other laws outside the Act may restrict the ability of a public official to hold two public offices simultaneously, if those offices are determined to be “incompatible” offices. How-

ever, the conflict-of-interest analysis should be applied to any governmental decisions made by the designated employee.

**Helen Holmes Peak**  
**City of San Marcos**  
**Dated: June 28, 2005**  
**File Number I-05-065**

A local city attorney is advised that a member of the city council may vote on his/her appointment to a joint powers authority as long as the position is uncompensated, including positions where the member subject to the appointment waives any stipend provided with the position. The appointed member may not, however, participate in any decisions regarding reimbursement for expenses incurred in the position.

**Craig A. Steele**  
**Richards, Watson, Gershon**  
**Dated: June 13, 2005**  
**File Number A-05-071**

Assuming conflicts of interest in three of five council members, one council member may participate in litigation decisions by the city council under the Act’s “legally required participation” rules (section 87101 and regulation 18708). If the defendants may assert the lawyer-client or similar legal privilege to bar participation in these decisions by the council member who is suing her colleagues on the city council, the “legally required participation” rule will not be construed to compel the defendants to waive their right to assert the privilege.

**Richard D. Pio Roda**  
**City of Milpitas**  
**Dated: June 8, 2005**  
**File Number A-05-091**

The Act’s conflict-of-interest rules do not prohibit a mayor, who possesses but does not use his real estate license, from participating in a decision regulating real estate signs. The Act’s conflict-of-interest rules also do not prohibit a council member from participating in a decision regulating real estate in the value of her real estate business or its fiscal year gross revenues; or an effect of 5,000 or more in a fiscal year upon the expenses of the council member’s real estate business.

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**Gene Murabito,  
Glendora Planning Commission**

**Dated: June 29, 2005**

**File Number A-05-108**

A planning commissioner asks whether he can vote on commercial/retail developments where tenants and owners might join a Chamber of Commerce. A public official who owns a company that receives \$400 per month from the chamber may participate in the decisions. It does not appear the chamber or his business will be materially affected.

**Patrick C. Wilson  
City of Santa Rosa  
Dated: May 27, 2005  
File Number I-05-040**

A local planning commissioner is advised that he would have a conflict of interest in participating in decisions involving customers of a bank where he is employed as a vice-president and major loan officer and receives bonuses based on the bank's performance if his bonuses are affected by \$250 or more in a 12-month period.

**Laura C. Kuhn  
City of Scotts Valley  
Dated: May 12, 2005  
File Number A-05-069**

The Act's conflict-of-interest rules are presumed to not prohibit a city's redevelopment director, whose home is over 500 feet away from the proposed relocation of a propane facility, from participating in decisions regarding the relocation, based upon the opinion of experts solicited by the director that such relocation would not affect the value of her home.

**Christi Hogin  
City of Malibu  
Dated: May 23, 2005  
File Number A-05-070**

A city attorney sought advice as to whether a conflict of interest would exist if a city council member participated in the city council's consideration of two development agreements: The first, between the city and a nonprofit, and the second, between the city and a business entity,

both of which are owned and controlled by official's source of income, a nonprofit. The city attorney was advised that: (1) the council member may not participate in decisions regarding the development agreement between the nonprofit and the city, if it is reasonably foreseeable that such decisions would have *any* financial effect at all on the nonprofit; and (2) it is presumed that the financial effect of the governmental decision on the business entity is material. Therefore, unless this presumption is rebutted, the council member is disqualified from participating in this decision.

**Dianne Fritz  
County of Mariposa  
Dated: May 2, 2005  
File Number I-05-072**

A member of a county Board of Supervisors and a local business owner, sought advice regarding the Act's conflict-of-interest provisions with respect to participating in decisions regarding the county's sign ordinance. The official was advised that a conflict of interest exist only if it is reasonably foreseeable that her economic interests will be materially affected by the decision. The public official must make a good faith effort to assess the effect of the decision by using some reasonable and objective method of valuation.

**Velina Consuelo Underwood  
City of Gualala  
Dated: May 23, 2005  
File Number A-05-077**

The Act's conflict-of-interest rules do not prohibit a member of an advisory board, which makes recommendations to the County Planning Department regarding requests for development or use permits, from participating in a decision concerning a permit request by an individual against whom the advisory board member, as a private attorney, represented a former client. This is because the earlier litigation has concluded, the board member has been completely paid for her legal services, and no longer represents her client (or anyone else) against the individual seeking a favorable permit recommendation.

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**Huston T. Carlyle, Jr.**  
**City of San Bernardino**  
**Dated: May 19, 2005**  
**File Number A-05-081**

A council member is disqualified under the Act's conflict-of-interest provisions from taking any part in city council decisions regarding the purchase of, or eminent domain proceedings against, real property owned by the council member's aunt, who employs the council member in her wholly-owned business. The letter concludes that it is foreseeable that these decisions would have a material financial effect on the council member's source of income.

**Valentin J. Lopez**  
**California Highway Patrol**  
**Dated: May 19, 2005**  
**File Number I-05-082**

An employee of a state agency asked if the on-line business he was creating would pose a conflict of interest with regard to his position with the state agency. The requestor was advised that the Act does not bar public officials from maintaining outside employment during their tenure as public officials. However, a conflict of interest under the Act can arise within the context of specific governmental decisions that have reasonably foreseeable material financial effects on one or more of an official's economic interests, including his or her business interests and sources of income to that business. The official was also strongly advised to consult his agency's statement of incompatible activities for guidelines when considering receiving outside income concurrent with his position with the state agency.

**John A. Ricker**  
**County of Santa Cruz**  
**Dated: May 3, 2005**  
**File Number A-05-084**

A county employee may participate in decisions involving the formation of the community's facilities district, so long as those decisions will have no financial effect on his real property which is outside, but adjacent to the proposed district.

**Teng-cheng Wu**  
**Mountain View Sanitary District**  
**Dated: May 27, 2005**  
**File Number A-05-092**

A public official asked whether he could travel to China to provide paid consulting services to the World Bank. He was advised that although the Act does not bar public officials from maintaining outside employment during their tenure as public officials, a conflict of interest under the Act can arise within the context of specific governmental decisions that have reasonably foreseeable material financial effects on one or more of an official's economic interests, including a source of income.

**Quinn M. Barrow**  
**City of South El Monte**  
**Dated: May 31, 2005**  
**File Number A-05-102**

A city council member is advised that he may not participate in a decision by the city council about whether to award grant funding to the non-profit organization that employs him.

## Conflict of Interest Code

**Sandra K. Duveneck**  
**California Department of Corrections  
& Rehabilitation**  
**Dated: July 18, 2005**  
**File Number A-05-133**

In the case of a newly-created agency (California Department of Corrections & Rehabilitation—CDCR) consolidating the functions of one or more abolished agencies, non-board member public officials of an old agency (Youth and Adult Corrections Agency), whose job functions have not materially changed, may continue filing annual statements of economic interests under the old conflict-of-interest code when the legislation creating the new agency states that all regulations adopted by predecessor entities are expressly continued in force. However, members of the new boards within CDCR are required to file new, full-disclosure state-

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ments under section 87302.6. The CDCR has 90 days to submit a new conflict-of-interest code to the Commission for approval or revisions.

**Cannon Michael**  
**San Luis Resource Conservation District**  
**Dated: July 12, 2005**  
**File Number A-05-068**

The Act states that the Commission is the code reviewing body for multi-county local government agencies. The determination as to whether an exemption from having to file a conflict-of-interest code which was previously granted to a multi-county local agency is still valid is subject to the provisions of regulation 18750.1. Therefore, that determination is to be made by the Executive Director.

**Gary W. Sawyers**  
**Western Valley Land Conservancy**  
**Dated: July 18, 2005**  
**File Number A-05-123**

A public benefit corporation, organized as a land conservancy, and which substantially meets the four criteria set forth in the commission's *Siegel* Opinion letter (3 FPPC Ops. 62) and its progeny is considered a government agency subject to the strictures of the Act.

**Becky Bailey-Findley**  
**Orange County Fair & Exposition Center**  
**Dated: May 12, 2005**  
**File Number A-05-066**

The 32<sup>nd</sup> District Agricultural Association was advised that its board members and senior staff meet the definition of public officials who manage public investments and are subject to the disclosure provisions of section 87200.

## Gift Limits

**Larry A. Alamao**  
**Department of Real Estate**  
**Dated: July 8, 2005**  
**File Number I-05-117**

A department head is advised regarding the gift

limit and reporting provisions of the Act in relation to the acceptance and valuation of transportation on private aircraft. The value of the gift is its fair market value at the time received.

**Wen Ling Chin**  
**San Francisco Retirement System**  
**Dated: June 3, 2005**  
**File Number I-05-086**

A security analyst for a local government agency is advised that she did not receive a reportable gift of lodging when she attended an investor conference, as she fully reimbursed the provider of the lodging within 30 days of attending the conference.

**Richard D. King**  
**Foothill Corporate Center**  
**Dated: June 3, 2005**  
**File Number I-05-095**

This letter provides guidance to a city planning commissioner on determining whether reimbursements for travel are gifts or income.

**Michael H. Krausnick**  
**Stanislaus County**  
**Dated: May 12, 2005**  
**File Number A-05-085**

A county counsel sought advice as to whether a computer won in a random drawing by a public official was disclosable as a gift or as income on the Form 700. The official was advised that as long as the raffle was open to all persons attending the event, and the event was open to the public, the raffle was a "bona fide competition." Thus, the raffle prize must be reported as income at its fair market value on the official's next annual statement of economic interests.

## Honoraria

**Karen Gorman**  
**Metropolitan Transportation Authority**  
**Dated: July 8, 2005**  
**File Number A-05-139**

A flat fee paid to a designated employee for providing consumer input for a study conducted by a marketing research firm is not a prohibited honorarium within the meaning of the Act.

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## Lobbying

**John Keplinger**  
**The Secretary of State**  
**Dated: May 16, 2005**  
**File Number A-05-001**

The office of the Secretary of State is advised that it must publish the lobbyist directory in at least one other form aside from the online directory.

## Mass Mailing

**Maggie Johnston**  
**Marin County Employees' Retirement Association**  
**Dated: June 13, 2005**  
**File Number A-05-028**

The Act's restrictions upon mass mailings at public expense apply to a county employee retirement association from using public money to produce and/or distribute a tangible version of its quarterly newsletter. However, the scope of the Act's restrictions is limited. The association, for example, may publish tangible information about "non-elected" association board members, or information about any board members on the association's website.

## Revolving Door

**Skip Jones**  
**Milk Processing Board**  
**Dated: July 12, 2005**  
**File Number A-05-062**

A former employee of the Milk Processing Board/Dept. of Food and Agriculture (MPB/DFA) is advised that he may not engage in activities for the purpose of influencing administrative or legislative action of his former state agency for one year after leaving his state position. However, he may consult with milk handlers and appear before MPB/DFA staff regarding the specific audit of his clients' monthly filings, so long as they are not proceedings in

which he participated as a state administrative official. The requestor is further advised that he may appear at public meetings and request public records on behalf of his clients. He may attend general informational meetings, seminars, or similar events and communicate with the press.

**Jonna A. Ward**  
**Visionary Integration Professionals, Inc.**  
**Dated: July 8, 2005**  
**File Number A-05-096**

The current employer of a former state administrative official sought advice regarding revolving door provisions of the Act. The employer sought advice regarding whether the former official could participate or assist in a newly issued request for proposal ("RFP") issued by the state, which the employer viewed as a "new proceeding." The former official had participated in the "draft" request for proposal as a consultant for the state. The lifetime ban on "switching sides" in sections 87401 and 87402 prohibits the former official from representing or assisting her current employer because the two RFPs involve the same party, the same subject matter, as well as similar factual issues. The current RFP is not a new proceeding for purposes of the post-governmental restrictions of the Act.

**Margaret Griffin**  
**California Department of Aging**  
**Dated: July 14, 2005**  
**File Number A-05-114**

A retiring state employee is provided with informal assistance concerning the restrictions placed on her by the Political Reform Act as she contemplates an opportunity to work as a consultant after her retirement for an organization of service providers whose services she monitored as a state employee.

**Anne Mayer**  
**Riverside County Transportation Commission**  
**Dated: July 21, 2005**  
**File Number I-05-115**

A former district director for a state agency is advised concerning the Act's post-governmental

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employment restrictions as they relate to her attendance and participation at meetings with Caltrans employees in performing the functions of her current job with a local transportation agency.

**Norman Suydam**  
**LAN Engineering Corporation**  
**Dated: June 17, 2005**  
**File Number A-05-103**

A former state official sought advice regarding revolving door provisions of the Act. Specifically, the official wished to know whether he would be barred from working a management contract awarded by his former agency. Assuming the permanent ban does not apply, he may perform work involving the management contract, which was an existing contract awarded when the official was still in state service. However, the official may not, as a paid employee of a private engineering consulting firm, appear before or communicate with his former agency, if the appearance is made for the purpose of influencing any legislative or administrative action of the agency, or influencing any discretionary act involving the issuance, amendment, awarding, or revocation of a permit, license, grant or contract, or the sale of purchase of goods or property.

**Richard P. Doyle**  
**LAN Engineering Corporation**  
**Dated: June 6, 2005**  
**File Number A-05-104**

A former state official sought advice regarding revolving door provisions of the Act. Specifically, the official wished to know whether he would be barred under the lifetime ban from working on a project in which he had participated in planning as a former state worker. The supervisor's new employer was awarded the bid for the project prior to the hiring of the official and more than a year after the official left state service. The official would be involved in supervising development of the project. The official was advised that he may participate in work on the development phase of the project as it is considered a new proceeding.

## Statements of Economic Interests

**Elliott Robinson**  
**Monterey County**  
**Dated June 3, 2005**  
**File Number A-05-062**

A county asks if the local members of a workforce investment board are public officials under the Act. The advice provided stated that members of the workforce investment board, which will serve as a workforce investment board pursuant to the Workforce Investment Act, are public officials who must file statements of economic interests and are subject to the Act's conflict-of-interest rules.







